

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

MICHAEL BROOKS : CIVIL ACTION
v. :
BARRY SMITH, *et al.* : NO. 21-5475
: :
: :

ORDER

AND NOW, this 30th day of September 2022, following our independent consideration of Judge Carlos's extensive Report and Recommendation (ECF Doc. No. 11) recommending we deny and dismiss the Petition for writ of *habeas corpus* (ECF Doc. No. 1), Petitioner's Objections (ECF Doc. Nos. 17, 18) to Judge Carlos's Report and Recommendation (ECF Doc. No. 11), agreeing with Judge Carlos's sound reasoning as to the Petitioner's first three claims challenging ineffectiveness of post-conviction counsel not cognizable under habeas and his fourth claim challenging the findings of the state court as having erred in applying Pennsylvania law, finding no due process violation, and for the reasons more fully detailed in the accompanying Memorandum and the Report and Recommendation (ECF Doc. No. 11), it is

ORDERED:

1. We **OVERRULE** the Petitioner's Objections (ECF Doc. Nos. 17, 18);
2. We **APPROVE** and **ADOPT** Judge Carlos's Report and Recommendation (ECF Doc. No. 11);
3. We **DENY** and **DISMISS** the Petition for writ of *habeas corpus* (ECF Doc. No. 1);
4. We find no basis for a certificate of appealability;¹ and,
5. The Clerk of Court shall **close** this case.


KEARNEY, J.

¹ See 28 U.S.C. § 2253(c)(2); *Slack v. McDaniel*, 529 U.S. 473, 484 (2000).